



Department of Health and Human Services
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Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

DATE: July 25, 2011

TO: Interested Parties

FROM: Patricia Dushuttle, Director, Division of Policy, MaineCare Services

SUBJECT: Adoption final rule - MaineCare Benefits Manual, 10-144 C.M.R. Ch 101, Chapter II, Section 75, Vision Services

The Department is adopting the following changes to MaineCare Benefits Manual, 10-144 C.M.R. Chapter 101, Section 75, Chapter II, Vision Services: (1) that prosthetics be provided only by ophthalmologist or optometrist, since opticians are not licensed to provide this service; (2) that prior authorization be deleted for tint, photochromatic or ultraviolet lenses; however, the Department is proposing to insert the medically necessary requirements for these lenses into the rule; (3) that the Department's authorized agent be utilized for certain services; (4) that there is no one year warranty for normal wear and tear for articles purchased under the Vision Care Volume Purchase Contract (Contractor); (5) deleting the provision that allows providers to determine a need for repair/replacement of glasses/lenses; and (6) proposing that the Contractor be responsible for furnishing postage-paid mailers to providers for use in returning defective items to the Contractor. When providers use these mailers, the Contractor is solely responsible for the cost of items lost in transit; otherwise the provider assumes the financial responsibility.

A public hearing was held on January 18, 2011. Per the Governor's Executive Order 09 FY 11/12, An Order to Improve the Rulemaking Process, the 90-day public comment period for this rulemaking ended on April 30, 2011.

Rules and related rulemaking documents may be reviewed at and printed from MaineCare Services website at http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.html or, for a fee, interested parties may request a paper copy of rules by calling (207)287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-606-0215.

A copy of the public comments and Department responses can be viewed at and printed from MaineCare Services website or obtained by calling (207) 287-9368 or TTY: (207) 287-1828 or 1-800-606-0215.

If you have any questions regarding the policy, please contact your Provider Relations Specialist at 1-866-690-5585 or TTY: 711.

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, MaineCare Services

CHAPTER NUMBER AND TITLE: MaineCare Benefits Manual, Chapter II, Section 75, Vision Services

ADOPTED RULE NUMBER:

CONCISE SUMMARY: The Department is adopting the following rule changes: (1) that prosthetics be provided only by ophthalmologist or optometrist, since opticians are not licensed to provide this service; (2) that prior authorization be deleted for tint, photochromatic or ultraviolet lenses; however, the Department is proposing to insert the medically necessary requirements for these lenses into the rule; (3) that the Department's authorized agent be utilized for certain services; (4) that there is no one year warranty for normal wear and tear for articles purchased under the Vision Care Volume Purchase Contract (Contractor); (5) deleting the provision that allows providers to determine a need for repair/replacement of glasses/lenses; and (6) proposing that the Contractor be responsible for furnishing postage-paid mailers to providers for use in returning defective items to the Contractor. When providers use these mailers, the Contractor is solely responsible for the cost of items lost in transit; otherwise the provider assumes the financial responsibility. These rule changes do not have any adverse economic impact on municipal or county governments or small businesses.

See http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.html for rules and related rulemaking documents. These rule changes are not expected to have any adverse impact on municipalities or counties or small businesses.

EFFECTIVE DATE: August 25, 2011

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75.01 VISION SERVICE PROVIDERS

The provider of vision services may be an ophthalmologist, optometrist or optician. Providers of vision services reimbursed under Section 90, Physician Services, must also provide services following the requirements and standards set forth in this Section.

All providers must function within the scope of their current license to practice in the state or province in which services are provided.

75.02 MEMBER ELIGIBILITY FOR COVERED SERVICES

MaineCare members are eligible for medically necessary vision services as long as they are enrolled in MaineCare.

If a member loses his/her MaineCare eligibility, MaineCare will pay for eyeglasses if the provider requested and received approval for eyeglasses and laboratory services while the member was enrolled in MaineCare. Providers must indicate on the claim the date the eyeglasses were ordered. The Vision Care Volume Purchase Contractor ("Contractor") will bill the provider at the Contractor's usual and customary charge for any orders submitted for an ineligible individual.

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75.03 COVERED SERVICES

MaineCare reimburses for some services differently for members based on age or residence in an ICF-MR. Only an ophthalmologist or optometrist may provide services described in Section 75.03-1.

75.03-1 Services That May be Provided Only by an Ophthalmologist or Optometrist

Only an ophthalmologist or optometrist may provide the following services:

A. Eye Exams

For members under age twenty-one (21), MaineCare will pay for one annual routine eye exam. For members ages twenty-one (21) and over who reside in an ICF-MR, MaineCare will pay for one annual routine eye exam. For members' ages twenty-one (21) and over, MaineCare will pay for only one routine eye exam every two (2) years.

1. Eye Examination, Brief - Limited - Minimal

A brief eye examination is a limited or minimal level of service for which evaluation and detection require only a brief history and examination.

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75.03 **COVERED SERVICES (cont.)**

Example: A patient visit of 5 to 15 minutes required to evaluate a problem, to re-evaluate a prior problem or abnormality, or for further testing and evaluation of an existing chronic concern.

2. **Eye Examination, Intermediate - Extended**

An intermediate eye examination is a level of service more extensive than that of a follow-up, substantiated by documentation noting change and/or complication necessitating evaluation and detection of an otherwise stable condition.

3. **Eye Examination - Comprehensive**

A comprehensive eye examination is a level of service involving an in-depth evaluation of a member with a new or existing problem requiring the development or complete re-evaluation of data.

Example: The examination of the eye and related structures to ascertain defects or abnormalities, to detect the presence of eye diseases, to determine the refractive and accommodative states of the eyes, and to evaluate the visual functions. The eye examination includes a diagnostic history, visual acuity determination, testing for refraction, muscle balance and accommodative function, ophthalmoscopy and biomicroscopy. Tonometry and gross visual field testing should be included when indicated. Other tests may be included as required as long as they fall within the scope of licensure for optometry.

4. **Exam Referral Restrictions**

An ophthalmologist or optometrist who has provided an eye exam for a member may not refer that member to another vision service provider for the sole purpose of obtaining eyeglasses through the Vision Care Volume Purchase Contractor.

B. **Other Studies**

Other studies limited to tonography, gonioscopy, fundus photography, anterior segment photography and mydriatic and cycloplegic examinations are covered services.

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75.03 **COVERED SERVICES (cont.)**

C. Visual Field Testing

The following are covered visual field testing services:

1. Limited Visual Field Testing

Limited visual field testing is screening of the central and/or peripheral visual field, utilizing automatic or semi-automatic methods and devices providing printed record(s) of the visual field. Confrontation or finger fields and Harrington-Flocks type screeners do not by themselves constitute a screening of the visual field.

2. Intermediate and Extended Visual Field Testing

Intermediate and extended visual field testing is testing of the central and/or peripheral visual fields, utilizing automatic or semi-automatic methods and instruments for the detection of diseases of the visual system, such as glaucoma, retinal detachment, and/or neurological disease.

3. Visual Field Testing Requirements

The following requirements apply:

- a. There is no minimum age requirement as long as the member is mature enough to respond adequately and correctly, and provide a valid response.
- b. Only one baseline screening field may be justified if the member is under the age of twenty-one (21).
- c. Repetition of screening field is permitted only when it is medically necessary. In the typical case, this procedure would need to be repeated only every three to five years.

D. Refraction

The refraction test is an eye exam that measures a person's prescription for eyeglasses or contact lenses.

E. Corrective Treatment

Corrective treatment is the use of brief, easily explained and performed home orthoptic therapy or other corrective procedures to preserve, restore, or improve vision or visual functioning. Also, corrective treatments

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include the correction of improper visual habits and/or ocular hygiene through discussion or demonstration.

F. **Orthoptic Therapy/Visual Training**

Orthoptic therapy/visual training is the utilization of in-office methods and devices to improve accommodative, heterophoric, or heterotropic conditions.

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Providers must request and receive prior authorization from the MaineCare Authorization Unit or its authorized agent for Orthoptic Therapy/Visual Training services.

G. **Contact Lenses**

1. **Members under Age 21**

For members under age 21, MaineCare covers contact lenses only for treatment of ocular pathology, or for cases in which visual acuity is not correctable to 20/70 with ophthalmic lenses, but can be improved to 20/70 or better with contact lenses. MaineCare covers initial contact lens(es) and one replacement lens per eye per year.

Providers must request and receive prior authorization from the MaineCare Authorization Unit or its authorized agent for contact lenses.

2. **Members Ages 21 and Over**

MaineCare does not cover contact lenses for members' ages twenty-one (21) and over.

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H. **Prosthetics, including artificial eyes and replacing the lens of an eye.**

75.03-2 **Services That May be Provided by An Ophthalmologist, Optometrist or Optician**

MaineCare covers the following services when provided by an ophthalmologist, optometrist or optician:

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A. **Eyeglasses.** Eyeglasses are defined as lenses, frames and associated parts and cases. The Contractor will fill prescriptions in minus cylinder form only.

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75.03 **COVERED SERVICES (cont.)**

1. **Members Ages 21 and Over**

For members ages 21 and over, MaineCare will pay for one pair of eyeglasses per lifetime when the power is equal to or greater than 10.00 diopters.

2. **Members Under Age 21**

For members under age 21, MaineCare will pay for eyeglasses when the refractive error in at least one eye meets at least one of the following definitions:

- a. Hyperopia: +1.25 diopter or over
- b. Myopia: -0.75 diopter or over
- c. Astigmatism: -0.50 diopter or over

Providers must request and receive prior authorization from the MaineCare Authorization Unit or its authorized agent for cases where the refractive error is below the criteria set forth above. The Prior Authorization Unit or its authorized agent will require written justification of the medical necessity in such cases.

3. **Dispensing**

The dispensing process, once initiated, must include: initial fitting, selection, adjustment, and processing of the prescription order prior to manufacture; inspection and verification of the completed order; bending and adjusting of eyeglasses and lenses at the time of dispensing; and additional adjusting as required for best visual use and continued comfort.

MaineCare providers may not impose an extra charge for adjusting and fitting of eyeglasses made after the initial dispensing process regardless of who has dispensed the eyeglasses.

MaineCare providers may not refuse to fill a prescription for eyeglasses if the member presents the provider with a valid, current prescription for eyeglasses from an ophthalmologist or optometrist, unless it is standard practice for the provider to refuse to do so for non-MaineCare members as well. Additionally, MaineCare providers may not require that the member submit to another eye exam in order to fill a prescription if the member presents the provider with a valid, current prescription for eyeglasses from an ophthalmologist or optometrist.

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75.03 COVERED SERVICES (cont.)

4. Lenses and Frames

- a. Providers must order lenses, frames, and frame parts through the Department's designated Vision Care Volume Purchase Contractor (the Contractor).
- b. If the frame has been damaged, MaineCare will pay for a frame of identical style if the lenses are still serviceable. If an identical frame is not available or a change in size is required, MaineCare will cover the cost of a new frame and lenses.

Members have the option to have replacement lenses fitted into their existing MaineCare contract-frame, with the exception of oversize lenses as noted in Section 75.05.

- c. Providers must request and receive prior authorization from the MaineCare Authorization Unit or its authorized agent for frames and/or lenses that cost more than the MaineCare maximum allowance and/or for medically necessary frames and or lenses that cannot be provided by the Contractor. Providers must supply clinical documentation indicating medical necessity, e.g., allergy to materials used by Contractor. MaineCare will reimburse providers at the wholesale cost, not to exceed \$70.00 per frame. MaineCare will pay no part of the cost of eyeglasses unless prior authorization is obtained from the MaineCare Authorization Unit or authorized agent.
- d. Tint, photochromatic, or ultraviolet lenses are covered by MaineCare when medical documentation, including appropriate diagnosis and confirming tests and lab results, is maintained in the member's medical record and made available to the Department upon request. Ultraviolet (UVA and UVB) must not be ordered by the provider and will not be additionally reimbursed by the Department when it is an indigenous feature of the lens, such as with a polycarbonate lens. The diagnosis code indicating the medical necessity of the service must be submitted on the order form to the Contractor when ordering tint, photochromatic or ultraviolet lenses.

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For members age twenty-one (21) and older, the following additional requirements must be met:

- a. For ultraviolet lenses, the member must have had cataract extraction.
- b. For tint and photochromatic lenses, the member must have a medical condition that induces photophobia, which must be confirmed by one of the following tests: ophthalmoscopy and slit lamp examination, corneal scraping or lumbar puncture.

5. **Repair Options**

Members may choose from three options for the repair of covered eyeglasses:

- a. The provider sends the eyeglasses to the Contractor for repair. The Contractor bills the Department for any parts and repair. The Contractor is responsible for furnishing postage-paid mailers to MaineCare providers for use in returning materials to the Contractor; or
- b. The provider orders any necessary parts from the Contractor. The Contractor bills the Department for any parts. The provider bills the Department for the repair only; or
- c. The provider orders any necessary part(s) for covered eyeglasses from its usual and customary supplier and pays that supplier. The provider bills the member for any parts and bills MaineCare for the repair.

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B. **Low-Vision Aids**

MaineCare pays for low-vision aids only when best correctable vision of 20/70 or poorer can be improved to a more useful level for specific visual tasks. Examples include, but are not limited to: telescopic compound lens system, hand-held magnifiers.

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Providers must request and receive prior authorization from the MaineCare Authorization Unit or its authorized agent for low-vision aids.

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75.04 VISION SERVICE PROVIDER REQUIREMENTS

75.04-1 Chapter I Requirements

Vision service providers must comply with all provisions of Chapter I, Section 1, General Administrative Policies and Procedures, of the MaineCare Benefits Manual.

75.04-2 Vision Care Volume Purchase Contractor

A. Sole Supplier

Vision service providers must use MaineCare's designated Vision Care Volume Purchase Contractor (the Contractor) as the sole supplier of all eyeglasses for MaineCare members with no Medicare or other third party coverage, except as noted in Section 75.04-4(D). This includes lenses, frames, associated parts and cases.

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For those contract services/articles that require prior authorization, the provider must request prior authorization from the MaineCare Prior Authorization Unit or its authorized agent before placing an order with the Contractor. If the request is approved, the MaineCare Authorization Unit or its authorized agent will send written notification to both the provider and the Contractor.

The Contractor will not fill any provider orders without receiving notice of approval and a prior authorization number from the MaineCare Authorization Unit or its authorized agent.

If a MaineCare member has coverage for eyeglasses from Medicare or any other third party, the provider must follow his/her customary practice for the acquisition of these items rather than the above rules relating to acquisition from the Contractor. If these items are to be covered by MaineCare only, however, then they must be acquired in accordance with the above rules relating to acquisitions from the Contractor.

B. Vision Care Volume Purchase Warranty

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1. The Contractor must warrantee all articles purchased under the Vision Care Volume Purchase Contract for a minimum of one (1) year after delivery to the member. This warranty need not cover patient abuse or damage from normal wear and tear.

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75.04 **VISION SERVICE PROVIDER REQUIREMENTS (cont.)**

If the dispensing provider finds any article supplied under the contract to be unsatisfactory due to defective materials or workmanship, the provider may return the article to the Contractor and the Contractor will correct, adjust or replace the defective article at the Contractor's expense for a period of up to one year after delivery to the member.

Such defects or errors may include but are not limited to:

- a. Lenses that are broken, scratched, or chipped at the time of receipt by the provider; or
- b. Lenses that deviate from the provider's prescriptions beyond the deviation standards permitted by the ANSI Z80 Committee on Ophthalmic Standards.

The provider must return such articles to the Contractor. The Contractor must mail corrected or replacement articles to the provider within seven (7) working days of receipt of the unsatisfactory materials.

2. The provider must honor and enforce any express manufacturer warranties in excess of one (1) year.

C. Responsibility for Materials Lost in Transit

The sender (either the Contractor or the provider) must replace materials lost in transit, at no charge to MaineCare or the MaineCare member. The Contractor is responsible for furnishing postage-paid mailers to MaineCare providers for use in returning defective materials to the Contractor. The Contractor is solely responsible for the cost of materials lost in transit when the provider uses the Contractor's postage-paid mailers to return defective materials. The provider is responsible for the cost of replacing the materials lost in transit when the provider does not use Contractor postage-paid mailers to return defective materials.

75.04-3 **Professional Consultation – Ophthalmologists and Optometrists**

- A. When an ophthalmologist or optometrist detects signs of a treatable disease, he/she may arrange a medical consultation between an appropriate physician or specialist and the MaineCare member. MaineCare will reimburse the consulted professional for his/her consulting services.

MaineCare members participating in managed care need a referral from their primary care provider for any consultations as required by the managed care rules published in the MaineCare Benefits Manual, Chapter VI, Section 1, Primary Care Case Management.

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75.04 VISION SERVICE PROVIDER REQUIREMENTS (cont.)

- B. The referring ophthalmologist or optometrist is not permitted to receive compensation from MaineCare or from the consultant for setting up the consultation.
- C. When a consultation has been arranged, any invoice submitted by the ophthalmologist or optometrist or the consultant must indicate that a consulting relationship has been established.

75.04-4 Procedure to Request Prior Authorization

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Vision service providers must submit a written request for prior authorization to the MaineCare Authorization Unit or its authorized agent for certain services/articles described in this Section. The Vision Care Volume Purchase Contractor will not fill any orders for those contract services/articles that do require prior authorization without approval and a prior authorization number from the MaineCare Authorization Unit or its authorized agent.

In addition to the provisions described in the MaineCare Benefits Manual, Chapter I, Section 1, General Administrative Policies and Procedures, regarding prior authorization, providers must comply also with the requirements described below.

For all requests, providers must include the member's name, ID number, and birth date.

- A. For contact lenses, low vision aids, or eyeglasses for members under age twenty-one (21) when the refractive error does not meet the criteria in 75.03-2(B)(2), providers must supply:
 - 1. Pertinent history;
 - 2. Visual acuity with and without correction;
 - 3. Refractive error;
 - 4. Status of fusion;
 - 5. Keratometric readings for contact lens (es);
 - 6. Diagnoses; and
 - 7. Specific plan of treatment, including materials specifications for contact lenses or low vision aids.

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75.04 VISION SERVICE PROVIDER REQUIREMENTS (cont.)

B. For orthoptic therapy services, providers must supply:

1. Diagnoses;
2. Reasons for recommended orthoptic therapy and expected results;
3. Visual acuity with and without correction;
4. Status of fusion;
5. Refractive error;
6. Measurement of deviation at distance and/or near, with and without correction, and the method of measurement;
7. Specific plan of treatment;
8. Length of time the therapy is to be continued;
9. Possibility of arranging for device for training at home; and
10. Cost of the recommended therapy.

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C. For frames and/or lenses that cost more than the MaineCare maximum allowance and/or for medically necessary frames and or lenses that cannot be provided by the Contractor, providers must supply clinical documentation indicating medical necessity, e. g., allergy to materials used by Contractor. MaineCare will reimburse providers at the wholesale cost, not to exceed \$70.00/set of frames.

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D. Providers must mail prior authorization requests to:

MaineCare Authorization Unit
MaineCare Services
Department of Human Services
11 State House Station
Augusta, Maine 04333-0011

E. The MaineCare Authorization Unit or its authorized agent will send written notification indicating approval or disapproval to the provider. The MaineCare Authorization Unit or its authorized agent will send approval and a prior authorization number to the Vision Care Volume Care Contractor if appropriate. If the request is approved, the provider must write the prior authorization number on the invoice.

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75.05 NON-COVERED SERVICES

MaineCare will not reimburse providers for the following:

- A. Contact lenses for members' ages twenty-one (21) and over.
- B. Cosmetic contact lenses such as colored or tinted contact lenses and/or contact lenses for cosmetic reasons alone.
- C. Eyeglasses for members ages twenty-one (21) and over, except for one pair per lifetime and only for eyeglasses of power equal to or greater than 10.00 diopters.
- D. Provision and repair of oversize lenses, fashion frames, fashion tints or other ophthalmic supplies that serve only a cosmetic purpose.
- E. Tinted lenses, ultraviolet or photochromatic lenses for members ages twenty-one (21) and over whose prescription is less than 10.00 diopters.
- F. Covered eyeglasses or replacement parts obtained through any lab other than the Vision Care Volume Purchase Contractor except as noted in Section 75.04-4(D).
- G. New examinations where a MaineCare member is merely requesting that a current eyewear prescription be filled through the Vision Care Volume Purchase Contractor.
- H. Sample kits available to providers through the Vision Care Volume Purchase Contractor.
- I. MaineCare reimburses ophthalmologists performing cataract surgery a rate including both surgery and follow-up care following the surgery. If follow-up care is provided by an optometrist, that visit may not be billed additionally to MaineCare.
- J. MaineCare does not reimburse for UVA or UVB for polycarbonate lenses.

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75.06 CO-PAYMENT

Co-payment exemptions and procedures for dispute resolution are described in Chapter I, Section 1, General Administrative Policies and Procedures, of the MaineCare Benefits Manual.

75.06-1 Co-payment Amount

MaineCare members are responsible for paying co-payments for vision services. The co-payment amount is based on the amount MaineCare pays for the services as indicated in the chart below.

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75.06 **CO-PAYMENT (cont.)**

MaineCare Payment for Services	Member Co-payment (Optometrist)	Member Co-payment (Optician)
\$10.00 or less	\$.50	\$.50
\$10.01 - 25.00	\$1.00	\$1.00
\$25.01 - 50.00	\$2.00	\$2.00
\$50.01 or more	\$3.00	\$2.00

75.06-2 **Member Responsibility**

Co-payment for members may not exceed \$2.00 per day or \$20.00 per month for services provided by an optician or \$3.00 per day or \$30.00 per month for services provided by an optometrist. After the cap has been reached, the member will not be required to make additional co-payments and the provider will receive full MaineCare reimbursement for covered services.

75.07 **REIMBURSEMENT & BILLING**

75.07-1 **Reimbursement**

The provider must accept as payment in full the amounts established by MaineCare for covered services. Therefore, in accordance with State and federal laws, providers cannot charge a member an amount in addition to the payment received, or to be received, from MaineCare for a covered service. The MaineCare rates of reimbursement are posted in the fee schedule on the MaineCare website. Rates other than drug prices for new or changed codes (any CPT or HCPCS code) are determined based on the following lowest benchmark:

- A. The fee for service rate is set at fifty-three percent (53%) of the lowest level in the current Medicare fee schedule for Maine in effect at that time; or
- B. The lowest amount allowed by Medicare Part B for Maine area "99" non-facility fee schedule; or
- C. The amount allowed under Section 90 Physician Services; or
- D. The provider's usual and customary charge.

If a MaineCare member has coverage for eyeglasses from Medicare or any other third party, the provider must follow his/her customary practice for the acquisition of these items rather than the above rules relating to acquisition from the Vision Care Volume

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75.07 **REIMBURSEMENT & BILLING (cont)**

Purchase Contractor. If these items are to be covered by MaineCare only, however, then they must be acquired in accordance with the above rules relating to acquisitions from the Contractor.

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75.07-2 **Vision Care Volume Purchasing Plan**

All items covered under the Vision Care Volume Purchasing Plan contract shall be reimbursed at the contract rate.

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75.07-3 **Billing**

Providers must bill in accordance with the Department's billing requirements. The Department may require accordance with specific billing instructions including use of the CMS-1500 claim form. Providers must bill using the allowances for vision services listed by procedure code on the OMS website.